

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
HELENA DIVISION

ROBERT DANIEL MOORE,  
ADC #122001

PLAINTIFF

VS.

CASE NO. 2:05CV00016 JMM

CORRECTIONAL MEDICAL  
SERVICES, INC., et al.

DEFENDANTS

**ORDER**

The Court has received proposed findings and recommendations from United States Magistrate Judge Henry L. Jones, Jr. After careful review of the findings and recommendations and the timely objections thereto, as well as a de novo review of the record, the Court concludes that the findings and recommendations should be, and are hereby, approved and adopted as this Court's findings in all respects except as it relates to defendant CMS.

Although CMS was originally dismissed from Plaintiff's complaint, plaintiff was permitted to amend his complaint on September 23, 2005 so as to re-assert allegations against defendant CMS. CMS was served and subsequently filed an answer to Plaintiff's amended complaint. In their summary judgment motion, defendants state that the allegations against defendant CMS must be dismissed, because it can only be liable under 42 U.S.C. section 1983 if plaintiff can prove a policy was responsible for inflicting his injury. Defendants argue that plaintiff can provide no such proof. Plaintiff did not specifically respond to this

argument in his response to the motion. Having reviewed plaintiff's amended complaint, the Court finds that plaintiff does not allege that his injuries were the result of a CMS policy. In addition, the Court notes that CMS can not be held vicariously liable in a section 1983 action for the acts of its employees, as the doctrine of respondeat superior is not applicable to section 1983 actions. Therefore, the Court concludes that defendants' motion should be granted in part, with respect to defendant CMS. All remaining motions for summary judgment are hereby denied.

IT IS, THEREFORE, ORDERED that defendants' motions for summary judgment, docket numbers 78 and 82, are hereby denied in part and granted in part as set forth herein.

SO ORDERED this 30<sup>th</sup> day of October, 2006.

  
UNITED STATES DISTRICT JUDGE

